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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,935	11/15/2000	Ying Xie	80168-0126	5703
32658	7590	12/10/2003	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEEN ST. DENVER, CO 80202			HAQ, NAEEM U	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,935

Applicant(s)

XIE ET AL.

Examiner

Naeem Haq

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Drawings***

New corrected drawings are required because this application has been filed with informal drawings which are acceptable for examination purposes only. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance. Also see PTO-948 for additional information.

Specification

The disclosure is objected to because of the following informalities: The specification appears to contain a typographical error on page 9, line 19. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher et al. (US Patent 5,835,896) in view of Official Notice.

Referring to claims 1, 4, 9, 12, and 15, Fisher teaches a system, method, and a computer program for conducting an on-line auction comprising: receiving at least one proxy bid from at least one proxy bidder (column 9, lines 18-35; column 12, line 63 – column 13, line 24); sorting the at least one proxy bid in a descending order (column 9, lines 18-35; Figure 2); determining at least one winner of the on-line auction (column 6, lines 4-13; column 7, lines 1-7; column 10, lines 40-62; column 13, lines 25-54); generating a winning sale price (column 10, lines 29-39).

Referring to claims 2, 10, and 13, Fisher teaches determining a total quantity of goods for sale (Figure 2); determining a quantity of goods requested by each of the at least one proxy bidder (Figure 3). Fisher does not explicitly teach allocating a portion of the total quantity of goods for sale to each of the at least one proxy bidders based upon the quantity of goods requested by each of the at least one proxy bidder until all of the total quantity of goods is allocated, the total quantity of goods for sale being allocated to the at least one proxy bidder in descending order. However, Fisher teaches that a user is allowed to select the quantity of goods desired (Figure 2). Fisher also teaches notifying a user that the selected quantity may not be available (Figure 2). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to allocate the goods to bidders in descending order. One of ordinary skill in the art would have been motivated to do so in order to maximize the sales revenue for the seller.

Referring to claims 3, 5, 7, 8, 11, 14, Fisher teaches generating the winning sale price using the method listed (column 9, lines 18-35). Fisher also teaches that at least one proxy bidder declines the allocated goods (Figure 2), and that the predetermined increment level is a monetary unit (column 9, lines 18-35). Fisher does not teach that the increment unit is one dollar. However, Fisher teaches incrementing the bid while allowing the bidder to purchase the product at the "lowest possible price" (column 9, lines 18-35). Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use an increment of one dollar in the system and method of Fisher. One of ordinary skill in the art would have been motivated to do so in order to use a convenient and well-known monetary unit to allow the bidder to obtain the product at the "lowest possible price."

Referring to claim 6, Fisher does not teach allocating a portion of the total quantity of goods to a highest losing bidder, and generating a sale price for the highest losing bidder that is equivalent to a proxy bid submitted by the highest losing bidder. However, Official Notice is taken that it is old and well known in the art for a merchant to dispose of goods at various prices submitted by potential buyers. Therefore it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have the system and method of Fisher allocate a portion of the goods to various bidders at various prices. One of ordinary skill in the art would have been motivated to do so in order to allow a seller to sell as many goods as possible while maximizing revenue.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Naeem Haq whose telephone number is (703)-305-3930. The examiner can normally be reached on M-F 8:00am-5:00pm.

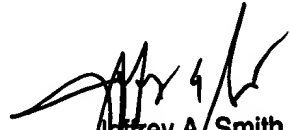
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff A. Smith can be reached on (703)-308-3588. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Naeem Haq, Patent Examiner
Art Unit 3625

December 1, 2003


Jeffrey A. Smith
Primary Examiner